

California Regional Water Quality Control Board
North Coast Region

Order No. 99-69

For

Administrative Civil Liability

In The Matter Of

Russian River County Sanitation District
For Violations Of Waste Discharge Requirements
Order No. 92-51

And The Water Quality Control Plan For
The North Coast Region

and

Sonoma County Water Agency
For Violations Of The Water Quality Control Plan For
The North Coast Region

Sonoma County

The Executive Officer of the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) hereby gives notice that:

1. The Russian River County Sanitation District (RRCSD), 2150 W. College Avenue, Santa Rosa, owns a municipal wastewater treatment facility located southeast of Vacation Beach and north of the Russian River on Neely Road. The Sonoma County Water Agency (SCWA) is under contract to operate and maintain the Russian River Wastewater Treatment Facility. The treatment facility serves the communities of Armstrong Park, Drakes Road area, Guerneville, Guerneville Park, Rio Nido and Vacation Beach. Treated effluent is disposed of by irrigation during the irrigation season and discharge to the Russian River during the discharge season (October 1 through May 14 each year).
2. The Regional Water Board adopted Waste Discharge Requirements Order No. 92-51 for the wastewater treatment facility on May 28, 1992. This Order also serves as a NPDES permit and allows the RRCSD to discharge up to one percent of the of the flow of the receiving water October 1 through May 14 of each year.
3. The RRCSD and the SCWA violated a provision and effluent limitations contained in Waste Discharge Requirements Order No. 92-51 and Waste Discharge Prohibitions contained in the Water Quality Control Plan for the North Coast Region for which the Regional Water Board may impose civil liability under Section 13385 of the California Water Code.
4. The RRCSD and the SCWA bypassed 1.41 million gallons (MG) around the AWT treatment process and discharged approximately 1.125 MG of partially treated wastewater to the Russian River after receiving excessive inflows from elevated river water in February 1999.
5. An evidentiary hearing on this matter was held before the Regional Water Board on July 22, 1999, in the Regional Water Board Meeting Room, 5550 Skylane Boulevard, Suite A, Santa Rosa, California. At the conclusion of this hearing, the Regional Water Board directed the Executive Officer to issue an administrative civil liability complaint in the amount of \$140,000 to the RRCSD. \$40,000 administrative civil liability was to be paid within 20 days of receipt of Complaint No. 99-51. The remaining \$100,000 of the administrative civil liability for the RRCSD was suspended conditioned upon the satisfactory completion of the Supplemental Environmental Projects outlined in

Administrative Civil Liability Complaint No. 99-51.

6. Administrative Civil Liability Complaint 99-51 was issued by the Executive Officer on July 30, 1999, in accordance with the Regional Water Board direction outline in Finding 6. A certified return receipt letter was returned to the Regional Water Board indicating the SCWA and the RRCSD received the Complaint on August 3, 1999. On August 23, 1999, the SCWA and the RRCSD requested a second hearing before the Regional Water Board and did not submit the \$40,000 administrative civil liability. Therefore, a second evidentiary hearing on this matter was held before the Regional Water Board on September 23, 1999, in the Regional Water Board Meeting Room, 5550 Skylane Boulevard, Suite A, Santa Rosa, California.

7. The following sections of Waste Discharge Requirements Order No. 92-51, were violated:

B. Effluent Limitations

1. Only advanced treated wastewater, as defined by the numerical limitations below shall be discharged from the wastewater treatment plant to the Russian River (Discharger Serial No. 001). The advanced treated wastewater shall be adequately disinfected, oxidized, coagulated, clarified and filtered (or equivalent), as determined by the State Department of Health Services. Advanced treated wastewater shall not contain constituents in excess of the following limits:

	Constituent	Unit	30-Day Average	7-Day Average	Daily Maximum	
20	Suspended Solids	mg/l	10		15	
	Coliform Organisms	MPN/100ml	2.2	---	23	
	Turbidity	NTU	2			5

E. Provisions

13. Bypass

The intentional diversion of waste streams from any portion of a treatment facility is prohibited.

8. The following section of the Water Quality Control Plan for the North Coast Region (Basin Plan) was violated:

Section 4. IMPLEMENTATION PLANS

POINT SOURCE MEASURES

WASTE DISCHARGE PROHIBITIONS:

The Regional Water Board declares that point source waste discharges, except as stipulated by the Thermal Plan, the Ocean Plan, and the action plans and policies contained in the Point Source Measures section of this Water Quality Control Plan, are prohibited in the following locations in the Region:

North Coastal Basin

4. The Russian River and its tributaries during the period of May 15 through September 30 and during all other periods when the waste discharge flow is greater than one percent of the receiving stream's flow as set forth in NPDES permits. In addition, the discharge of municipal waste during October 1 through May 14 shall be of advanced treated wastewater in accordance with effluent limitations contained in NPDES permits for

each affected discharger, and shall meet a median coliform level of 2.2 MPN/100 ml.

9. The RRCSD and the SCWA violated the above effluent limitations and provisions of Waste Discharge Requirements Order No. 92-51 and the Basin Plan.

10. The RRCSD and the SCWA have previously asserted that Provision E-13 of Order No. 92-51 incorporates the defense to bypass violations included in the federal regulations at 40 CFR 122.42(m). It does not. Even if Order No. 92-51 incorporated the defense and the RRCSD met the conditions for applying the defense in this case, however, the defense would not excuse the violations of the effluent limitation, Provision E-5, or the Basin Plan Prohibition. Therefore, the number of days of violations of Waste Discharge Requirements Order No. 92-51 would not change. The RRCSD and the SCWA have also previously asserted that the violations are excused by Provision E-14 of Order 92-51. Provision E-14 incorporates the upset defense for violations of technology-based effluent limits provided by 40 CFR 122.42(n). The violations do not qualify for the upset defense, however, because they were not the result of an exceptional incident and because the collection system and treatment system are improperly and/or inadequately designed. There have been five such incidents since January 1995. The dischargers' current lack of control over the inundation inflows was, however, the main factor in significantly reducing the amount assessed in this Order from the maximum amount available.

11. The following facts are the basis for the alleged violations in this matter:

Discharge of Partially Treated Wastewater

a. The RRWTF periodically experiences collection system inundation. These occurrences are usually associated with flooding in the lower Russian River, but have occurred during non-flood events. River water enters the collection system through plumbing fixtures of flooded homes, ajar manholes, illicit connections, and other sources. Elevated ground water also seeps into the collection system. The facility's treatment capacity may be exceeded during times of collection system inundation.

b. In 1997, the SCWA installed a bypass line to direct the excess influent to an emergency storage pond (1 million gallons). Stored wastewater would eventually be brought back to the headworks as flows decreased. This pipeline established more control over the flow rate through the treatment plant.

c. During February 1999, 17 1/4 inches of rain fell in the Guerneville area, according to the RRCSD's February 1999 Self-Monitoring Report. As the collection system became inundated and the influent rate increased to an average of 1.92 MGD from February 7 through February 10, 1999. During that four-day period the SWCA treated an average 1.57 MGD to AWT standards and bypassed about 0.35 MGD to the emergency storage pond. A total of approximately 1.41 MG of wastewater was bypassed into the emergency storage pond between February 7 and February 10, 1999.

d. Chlorine, in solution, was injected into the bypass pipeline at the headworks as the influent was being diverted to the emergency storage pond in an attempt at disinfection. The bypassed wastewater was allowed to settle prior to blending with the AWT effluent and then discharged to the Russian River. Approximately 1.125 MG of partially disinfected wastewater was discharged to the Russian River between February 8 and February 10, 1999. This discharge was not susceptible to cleanup.

e. The SCWA notified Regional Water Board staff as well as the appropriate local agencies within hours of the bypass and prior to the actual discharge to the river. A report describing the above events was submitted on April 8, 1999.

f. The SCWA reported that 1.41 MG were bypassed and directed into the emergency storage pond. The SCWA also reported that 1.125 MG of the 1.41 MG was discharged to the Russian River. The difference, 0.285 MG, is the volume the SCWA was able to store in the emergency storage pond and eventually bring back through the headworks. The emergency storage pond is rated at 1.0 MG. The emergency storage pond captured only 28.5 percent

of its rated capacity.

g. Samples were taken after blending and prior to discharge to the Russian River. Analysis of the samples demonstrated the following effluent limitation violations of Waste Discharge Requirements Order No. 92-51:

- * 3 coliform violations,
- * 1 total suspended solids violations, and
- * 2 turbidity violations

h. The violations are more fully described in the Staff Report to Complaint No. 99-51 (Attachment A), which is hereby incorporated into this Order.

Proposed Civil Liability

12. Section 13385(a) of the California Water Code provides for the imposition of civil liabilities against dischargers who violate waste discharge requirements or prohibitions issued by the Regional Water Board. Section 13385(c) defines the amount of civil liability that may be imposed by the Regional Water Board as up to \$10,000 per day of violation and \$10 per gallon of waste discharged and not cleaned up in excess of 1,000 gallons. The civil liability that could be imposed against the RRCSD and the SCWA in this matter is calculated as follows:

Three days of violation of Waste Discharge Requirements Order No. 92-51 from February 8 through February 10, 1999.

Three days of discharge in violation of the Basin Plan from February 8 through February 10, 1999.

The discharge volume is estimated to be 1.125 million gallons. No cleanup of the discharge was made. Therefore, there were 1.124 million gallons discharged to the Russian River that was not cleaned up in excess of 1,000 gallons.

13. In determining the amount of any civil liability, the Regional Water Board took into account the nature, circumstances, extent, and gravity of the violation; whether the discharger has the ability to pay; whether the discharger has any prior history of violations; the degree of culpability; whether there were any economic savings as a result of the violation; and such other matters as justice may require. The Regional Water Board adopts the discussion of the above factors in the accompanying staff report.

14. The issuance of this order is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) pursuant to Title 14, California Code of Regulations, sections 15308 and 15321(a)(2), and Water Code section 13389.

15. The Russian River County Sanitation District is the owner of the wastewater treatment facility. The Sonoma County Water Agency is a contract operator. The operators employed by the SCWA operated the facility competently. The violations were the result of the inadequacies of the RRCSD's collection and treatment systems. The Regional Water Board considered this prior to issuing this administrative civil liability order solely to the Russian River County Sanitation District.

THEREFORE, IT IS HEREBY ORDERED that the Russian River County Sanitation District pay an administrative civil liability in the amount of \$140,000. \$40,000 is due and payable within 30 days of issuance of this Order. The remaining \$100,000 is suspended contingent upon the Russian River County Sanitation District's timely completion of the following Supplemental Environmental Projects (SEPs) to the Executive Officer's satisfaction.

Supplemental Environmental Projects:

A. Complete the Russian River County Sanitation District Collection System Study

(Attachment B) by August 1, 2000.

B. Evaluate and maximize the emergency storage reservoir's capacity. Complete evaluation and submit a report detailing reservoir capacity by November 1, 1999.

C. Revise sewer use ordinance to clarify authority to prohibit discharges to the sanitary sewer by January 1, 2000.

D. Revise sewer use ordinance to establish a clearly defined enforcement procedure including associated penalties to deal with violations of sewer use ordinance by August 1, 2000.

E. Revise, as necessary, and distribute a public information brochure during the month of December 1, 1999. By November 10, 1999, the brochure shall be submitted to the Executive Officer for review.

F. Revise, as necessary, submit, and commence implementation of a regular preventative maintenance program for the collection system by November 1, 1999.

G. Develop, submit and commence implementation of a plan to maximize the use of the collection system for storage by November 1, 1999.

H. Develop, submit and implement a plan to control solid and floatable materials from entering the Russian River by November 1, 1999.

The RRCSD shall submit a completion report for each of the above SEPs by the completion date. Failure to complete SEP A by the deadline will result in the automatic imposition of \$30,000 of the suspended ACL. Failure to complete SEPs B-H by their deadlines will result in the automatic imposition of \$10,000 of the suspended ACL for each SEP that is not completed.

Certification

I, Lee A. Michlin, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on September 23, 1999.

Lee A. Michlin
Executive Officer

(Russian River CSD Bypass ACL Order)

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